

USSSOINST 5800.1I
27 October 1997

U.S. SENDING STATE OFFICE FOR ITALY INSTRUCTION 5800.1I

Subj: PROCEDURES FOR PROCESSING CLAIMS WITHIN THE SINGLE-SERVICE RESPONSIBILITY OF THE U.S. NAVY

Ref: (a) NATO Status of Forces Agreement (NATO SOFA),
4 UST 1972, TIAS 2846
(b) 10 USC 1095, Health Care Services Incurred on
Behalf of Covered Beneficiaries: Collection from
Third-Party Payees
(c) 10 USC 2733, Military Claims Act
(d) 10 USC 2734, Foreign Claims Act
(e) 10 USC 2734a-34b, Pro-Rata Cost Sharing of Claims
Pursuant to International Agreements
(f) 10 USC 2736, Advance or Emergency Payments
(g) 10 USC 2737, Claims Not Cognizable Under Any Other
Provisions of Law
(h) 31 USC 951-53, Federal Claims Collection Act
(i) 42 USC 2651-53, Medical Care Recovery Act
(j) DOD Directive 5515.8, Single Service Assignment of
Responsibility for Processing of Claims
(k) Army Regulation 27-20, Claims
(l) Army Pamphlet 27-162, Claims
(m) Air Force Instruction 51-501, Tort Claims
(n) Navy JAG Instruction 5800.7C, Manual of the Judge
Advocate General (JAGMAN)
(o) Navy JAG Instruction 5890.1, Administrative
Processing and Consideration of Claims on Behalf of
and Against the United States
(p) Commander, U.S. Navy Europe (CINCUSNAVEUR)
Instruction 5800.5H, Claims Within the CINCUSNAVEUR Area of
Responsibility (AOR)

Encl: (1) Enclosure (2) of reference (o)
(2) Commander's/Supervisor's Incident/Accident Statement

1. Purpose. To set forth procedures for the reporting, investigating, and handling of all claims or potential claims (except admiralty and personnel claims) arising in Italy that are within the single-service responsibility of the U.S. Navy.

2. Cancellation. USSSOINST 5800.1H (10 April 1992).

3. Background:

a. Article VIII of reference (a) specifies the respective duties of the Contracting Parties concerning claims within their scope arising in their territories.

b. The Department of the Navy has single-service responsibility for the processing of claims which arise in Italy under references (a) through (i), pursuant to reference (j). See references (k), (m) and (o) for the promulgation of

reference (j) by the Departments of the Army, Navy, and Air Force, respectively.

c. In carrying out its mission, USSSO has the following functions for claims arising in Italy:

(1) to serve as the sole U.S. office of record for all reports of incidents and reports of investigations submitted by units or agencies of the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard pertaining to accidents/incidents/malpractice causing property damage, personal injury, or death.

(2) to maintain liaison with the appropriate authorities of the Government of Italy charged with the responsibility for investigating, settling, denying or recommending settlement of claims cognizable under reference (a);

(3) to reimburse the Government of Italy for 75 percent of those claims paid pursuant to Article VIII, paragraph 5 of reference (a), and reference (e);

(4) to adjudicate and award *ex-gratia* payments pursuant to Article VIII, paragraph 6 of reference (a), and references (d) and (n).

(5) to adjudicate and take final action (including, when required by references (n) and (o), transmittal to The Office of The Judge Advocate General, Department of the Navy (OTJAG, U.S. Navy)) on claims against the United States cognizable under references (c) and (d).

(6) to assert and take final action (including, when required by reference (o), transmittal to OTJAG, U.S. Navy and/or to the Department of Justice) on affirmative claims by the United States cognizable under references (b) and (h)-(i), when not otherwise asserted by medical treatment facilities.

4. Definitions. Expressions 4.a through 4.e below are defined as in the NATO SOFA.

a. "Force" means the personnel belonging to the land, sea, or air armed forces of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connection with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a "force" for the purpose of this Agreement.

b. "Civilian component" means the civilian personnel accompanying a force of a Contracting Party who are employees of an armed service of the Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located.

c. "Dependent" means the spouse of a member of a force or

of a civilian component, or a child of such member depending on him or her for support.

d. "Sending State" means the Contracting Party to which the force belongs.

e. "Receiving State" means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit.

For purposes of this instruction, Italy is the receiving State and the United States is the sending State.

5. Applicability. The provisions of this instruction are applicable to claims or potential claims in favor of or against the United States cognizable under references (a) through (i) which arise in Italy, when such claims arise out of personal injury, death and/or the loss, damage or destruction of property.

6. Incident Reports.

a. Primary Responsibility. The commander of the U.S. unit, installation, or agency most directly involved is responsible for investigating and reporting to USSSO all incidents out of which claims may arise for or against the United States. Normally, the commander most directly involved will be the commander of the unit to which the U.S. personnel concerned are assigned or attached, but there may be cases in which, by reasons of geographical proximity or otherwise, the commander of the nearest U.S. unit should act.

b. Secondary Responsibility. Cognizant senior servicing judge advocates,¹ commanders of medical treatment facilities (MTFs) and provost marshals all have secondary responsibility for investigating and reporting to USSSO all incidents out of which claims may arise for or against the United States. To the maximum extent possible, senior servicing judge advocates, MTF commanders, and provost marshals should coordinate with the commanders identified in paragraph 6a, *supra*, to ensure timely and accurate completion of investigating and reporting responsibilities. Depending on the availability of manpower experience and expertise, senior servicing judge advocates, MTF commanders, and provost marshals are usually best able to fulfill incident investigating and reporting requirements for their respective commands.

c. Submission, Format, and Contents. Within sixty (60)

¹ The term "senior servicing judge advocate" includes staff judge advocates, command judge advocates, command legal advisors, and task force judge advocates as designated by service or unified command regulations, as well as the Commanding Officer, Trial Service Office, Europe and Southwest Asia (TSO, EURSWA), and the Commanding Officer, Naval Legal Service Office, Europe and Southwest Asia (NLSO, EURSWA).

days from the date of an incident or the filing of a claim, whichever is earlier, the incident report, consisting of the original and one readable copy, will be sent directly to USSSO.

No particular form or format is required. The report shall be based on the best available objective evidence. Pertinent Italian documents should be included along with translations thereof. The original and one copy of the report, each having a full set of enclosures, must include:

(1) citation to the governing statutes and regulations under which the claim is or might be processed;

(2) a recommendation by the senior servicing judge advocate or subordinate attorney for or against approval of the actual claim or any potential claim, setting forth the rationale therefor as appropriate;

(3) a comprehensive report of the incident or accident made by the investigating officer in accordance with this instruction and any additional directives of the service involved;

(4) comprehensive statements by all witnesses;

(5) reports by the U.S. military authorities investigating the incident;

(6) reports by the Italian authorities investigating the incident or, if not available, the names and addresses of such authorities;

(7) in the case of an incident involving a military motor vehicle, an accurate and complete "Operator's Report of Motor Vehicle Accident" (SF 91) and a "Commander's/Supervisor's Incident/Accident Summary" (sample is reprinted at enclosure (2)). The latter is particularly important when the SF 91 is either unavailable or gives insufficient information to determine if the driver was within the performance of official duty and/or within the scope of his/her federal employment. At a minimum, one or both documents should establish the mission or duty being performed at the time of the accident, the command or agency the mission was being performed for, and the authorized route for the mission.

(8) the following information and any other information pertinent to an intelligent and fair determination of legal liability and the quantum of damages:

(a) diagrams and photographs of the scene of the accident (if originals are not included, state where the originals are maintained and their custodian);

(b) written descriptions and estimates of damages or injuries;

(c) medical records and reports setting forth the types and the severity of injuries (include MRIs, CT scans and/or X-rays, if available; if not included, state where the

originals are maintained and their custodian); and,

(d) in the case of property damage to a motor vehicle cognizable under reference (a), at least one expert's statement concerning the identification and extent of damage, the cost of required parts and labor, the time needed to effect necessary repairs, and, to the extent possible, the identification and extent of pre-existing damage²;

(9) information relative to the types and amounts of insurance coverage potentially available for settlement of claims for and against the United States, to include policy number, expiration date, and the address and telephone number of each insurance company;

(10) for NATO SOFA claims cognizable under reference (a), a certification by the senior servicing judge advocate³ as to whether or not the incident or accident occurred while the servicemember, member of the civilian component, or Italian national employee was "in the performance of official duty." The phrase should be interpreted as broadly as is reasonable in each particular factual situation, but must be carefully applied, with the findings supported by the evidence in the report. Also, the senior servicing judge advocate should state whether there was "misconduct" or "no misconduct" regarding the incident on the part of the servicemember, member of the civilian component, or Italian national employee.

(11) for Military Claims Act claims cognizable under reference (c), an opinion by the senior servicing judge advocate or a subordinate judge advocate/U.S. civilian attorney whether or not the incident or accident happened while the servicemember or member of the civilian component was "within the scope of his/her federal employment." Under reference (o), the phrase must be interpreted under general principles of United States law, with careful application to each particular factual situation.

d. Release. Incident reports will not be released to claimants, potential claimants, or any agency or instrumentality of the Government of Italy without the express prior approval of USSSO. USSSO approval is not required to release incident reports to other individuals and entities; however, releasing

² Under reference (o), at least two such estimates are required for claims cognizable under reference (c).

³ Over the years, the Italian Ministry of Defense (MOD) has requested that official duty certifications be made by the senior servicing judge advocate for a command. In practice, MOD will routinely accept certifications signed by other judge advocates. To ensure continued MOD acceptance of official duty certifications, USSSO requires that they be made by the senior servicing judge advocate or a subordinate judge advocate in the grade of O-3 (captain/lieutenant) or above.

officials should ensure compliance with applicable U.S. statutes (e.g., the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a, the DOD Quality Assurance Statute, 10 U.S.C. 1102, etc.), service regulations, and Italian law to the extent applicable.

7. NATO SOFA Claims.

a. The claims provisions of the NATO SOFA (reference (a)) are set out at Article VIII thereto. Italy, as the receiving State, adjudicates all claims cognizable under Article VIII, paragraph 5 (primarily claims arising out of the performance of "official duty" by a member of the force or civilian component), while the United States, as the sending State, adjudicates all *ex-gratia* claims cognizable under Article VIII, paragraph 6.

b. Normally, claims arising out of the acts or omissions of contractors, dependents (family members), or other civilians who are not members of the civilian component will not be cognizable under the NATO SOFA.

c. *Ex-gratia* claims arising in Italy are investigated, processed and adjudicated pursuant to this instruction and references (a), (d), and (n). Under references (d) and (n), a NATO SOFA claim cannot be paid *ex-gratia* if it is filed more than two (2) years from the date the claim accrued, irrespective of any applicable Italian statute of limitations period.

d. Claimants indicating a desire to file a claim cognizable under reference (a) should be advised to send the claim on plain paper to the Italian Receiving State Office at the following address:

Ministero della Difesa
Direzione Generale del Contenzioso
VIII Divisione
Via S. Francesco di Sales, 63
00165 Roma

e. Any NATO SOFA claim presented to a U.S. command should be immediately returned to the claimant who should be advised to file it as stated above with MOD. If not already completed, an incident report should be prepared regarding the incident.

8. Military Claims Act Claims.

a. Sole adjudicating guidance for claims cognizable under reference (c), the Military Claims Act (MCA), is contained at Enclosure 2 to reference (o) and this instruction. All activities shall be familiar with the requirements needed to process MCA claims under reference (o) and this instruction.

b. Claimants should never be told to forward MCA claims directly to USSSO. Such claims should be accepted by base legal offices (to include date stamping on the day of actual receipt), and transmitted to USSSO for final action only after all

administrative and local investigatory requirements have been met.

c. In addition to the requirements set out at paragraph 6c, *supra*, the following documentation is required when forwarding a MCA claim to USSSO for adjudication:

(1) The original SF 95, "Claim for Damage, Injury or Death." The claimant must sign and date the SF 95 and state a sum certain amount claimed in U.S. dollars. The date of receipt by the cognizant command/legal office must be annotated on the front of the SF 95.⁴

(2) Two estimates of repair are required when the value of repair exceeds \$50.00. Generally, the only exception shall be if the item requires immediate repair (i.e., a pair of eye glasses which is required for constant wear). If, however, it is not feasible to obtain a second estimate, the local command may request a waiver from USSSO by telephone or in writing. If the repair work has been completed, the claimant shall also submit the original or a photocopy of the paid repair receipt.⁵

(3) Written notification to the claimant that the claim has been transferred to USSSO for review and action. A copy of the notification will be included with the claim file.

d. A reasonable amount under the circumstances will usually be allowed for rental car expenses necessitated by an accident rendering a POV inoperable. Rental car expenses will be awarded only when alternate transportation is not reasonably available, and in most cases no more than fourteen (14) days of rental car expenses will be awarded. Claimants have a general duty to mitigate damages, and they must make reasonable accommodations for alternate transportation while awaiting repair or replacement of a POV. Such accommodations may include

⁴ Every reasonable effort should be made to ensure that MCA claims are presented in the first instance using an SF 95, as proper completion of the form helps ensure claimants provide the essential information needed to begin investigation such claims. However, when a claimant has presented a signed written demand for compensation on other than an SF 95, the written demand will be dated stamped and a claim will be opened. The claimant will then be requested to complete an SF 95, to which the original written demand is to be attached.

⁵ Payment shall be based upon the lowest of the estimates of repair. If the estimate is stated in a currency other than U.S. dollars, USSSO will compute the estimated amount utilizing the official U.S. Government currency exchange rate for the date of the estimate. For estimates submitted in foreign currencies without dates, the conversion exchange computations will be based on the date the claim was filed or adjudicated, whichever is more favorable to the United States.

ride sharing, use of public transportation, and use of a second POV owned by the claimant or claimant's accompanying immediate family members. Failure to mitigate damages will result in denial or reduction of the amount allowed for rental car expenses. Base legal offices are encouraged to contact USSSO to obtain further guidance on payment of rental car expenses under the MCA.

e. Claims involving "out-of-scope" traffic accidents involving U.S. Government vehicles are usually not cognizable under reference (c). When such claims are denied by USSSO under reference (c), they will be processed for potential settlement under references (g) and (o).

f. Claims by foreign nationals residing in foreign countries are not cognizable under the MCA, as a foreign national's exclusive remedy for claims arising in tort or for claims arising from noncombat activities of the U.S. Forces is under references (a) or (d), as appropriate. However, under reference (n), claims of command-sponsored family members (dependents) accompanying U.S. servicemembers or U.S. civilian employees are explicitly excluded from payment under reference (d). Similarly, MOD will normally deny NATO SOFA claims filed by Italian nationals who are command-sponsored dependents. In such cases, the claim will be considered for payment under reference (c). Legal offices that receive MCA claims from foreign nationals (including Italian nationals or dual nationals of the United States and Italy) for incidents arising in Italy should accept such claims and instruct the claimant to file an identical NATO SOFA claim with MOD. The legal office should then immediately notify USSSO of the claim so that proper coordination can be made with MOD.⁶

9. Medical Malpractice Claims.

a. Medical malpractice claims arising in Italy will be processed and adjudicated under this instruction and references (a), (c), (d), (n), and (o), as appropriate, as well as any additional service requirements.

b. References (k)-(m) provide useful suggestions on the investigation of medical malpractice claims and coordination with medical commands. On request, USSSO will provide extracts from references (k)-(m) to offices which do not have these references.

⁶ Service claims regulations should be consulted for claims filed by local national employees of the U.S. Forces. In certain circumstances, such claims may be considered "incident to service" or the result of an "unusual occurrence" as those terms are defined in applicable service claims regulations. In such cases, the claim may be payable under the Personnel Claims Act, 31 USC 3721, et. seq. All payments to local national employees made to the Personnel Claims Act will be reported to USSSO for coordination with MOD.

10. Affirmative Medical Care Recovery Claims.

a. Both the Medical Care Recovery Act (MCRA), reference (i), and Collections from Third-Party Payers, reference (b), allow the United States to collect the reasonable value of medical care provided or paid for by the United States on behalf of beneficiaries entitled to medical care at U.S. Government expense. Collections for care rendered in MTFs or civilian facilities and paid for by CHAMPUS/TRICARE or a military department are asserted under both statutes against tortiously liable third parties and patients' automobile or homeowners' insurance policies. Collections for care rendered in an MTF are credited to the appropriation supporting the maintenance and operation of that MTF. Collections for care rendered to active-duty servicemembers in civilian facilities which are paid for by a military department are credited back to that military department. Collections for care in civilian facilities paid for by CHAMPUS/TRICARE are credited to the General Treasury of the United States. Accounting data for these collections changes each fiscal year; current accounting data can be obtained from USSSO.

b. The Department of Defense requires that treatment for all injuries be reported to the judge advocate office responsible for assertion of affirmative medical care recovery claims. Under reference (j), the Navy has single-service claims responsibility for affirmative medical care recovery claims when such claims arise in Italy. Reference (o) assigns responsibility for assertion of these claims to USSSO; however, MTFs are authorized to assert affirmative medical care recovery claims against a beneficiary's health insurance.⁷

c. For successful assertion of potential medical care recovery claims, USSSO requires the assistance of local installations in gathering cost and medical care records, accident and police reports, and insurance information. Proper screening of patient records by MTFs and proper screening of military police/security police reports by base legal offices are the two most effective means of identifying potential medical care recovery claims.

d. Senior servicing judge advocates, MTF commanders, and provost marshals should take active steps to ensure that USSSO is provided with the following information identifying all potential affirmative medical care recovery claims when such claims cannot/will not be asserted by the cognizant MTF:

⁷ Reference (j) makes no designation of single-service responsibility for affirmative claims cognizable solely under reference (b), presumably because reference (j) was issued before the enactment of reference (b). However, the Navy's OTJAG has confirmed that USSSO is the sole legal office to assert affirmative medical care recovery claims arising in Italy under both references (b) and (i) when such claims will not be asserted by the cognizant MTF.

(1) Military police/security police "blotters" and reports.

(2) Operator's Report of Motor Vehicle Accident (SF 91).

(3) Signed forms (NAVJAG Form 5890/12, AF Form 438, DA Form 2631-R) documenting the amount of U.S. Government hospitalization and medical care charges.

(4) Other readily available evidence identifying the cause and extent of treated injuries, the types and costs of treatment, the identity of potential third-party payers, and full identification of applicable insurance policies (types and amounts of insurance, policy numbers, and the names, addresses and telephone numbers of insurance companies).

e. After receipt and review of such information, USSSO may seek further information such as the items listed at paragraphs 6(c)(3)-(7) and 6(c)(8)(a)-(b), *supra*. Such requests will be made only when the information is required for successful assertion of a medical care recovery claim.

11. Affirmative Property Damage Recovery Claims.

a. Reference (o) provides that USSSO is the office responsible for assertion and collection of affirmative claims for damage to U.S. Government property. All collections made are credited to the General Treasury of the United States.

b. Local commands are responsible for reporting all potential property damage recovery claims to USSSO and assisting USSSO in substantiating these claims for recovery from responsible third-parties. However, on a case-by-case basis (usually when the amount asserted does not exceed \$2,000.00), USSSO may authorize local commands or their servicing legal offices to assert such claims on behalf of the United States. No compromise settlements of property-damage claims asserted by local commands or their servicing legal offices may be made without the express prior approval of USSSO.

11. Nonappropriated-Fund Instrumentality (NAFI) Claims.

a. If a claimant presents a Personnel Claims Act claim (31 U.S.C. 3721, *et. seq.*) for loss or damage to personal property resulting from NAFI operations, use of applicable service claims references is directed.

b. All other claims arising out of NAFI operations will be processed as follows:

(1) Pursuant to reference (o), when the NAFI is protected by commercial insurance, the incident shall be immediately reported to the activity's commercial insurer, copy to USSSO, and the claimant advised to file with the commercial insurance agency. USSSO may then direct completion of an incident report (paragraph 6, *supra*) if it appears the United States could face residual liability after payment of available

commercial insurance or is otherwise required.

(2) The requirements of paragraphs 6, *supra*, must be met if the NAFI does not have commercial insurance covering the loss and the claim will be adjudicated by MOD or USSSO.⁸

c. In general, NAFIs are ultimately liable for the acts or omissions of their non-appropriated fund employees. To ensure proper apportionment between appropriated and nonappropriated funds, incident reports must describe the status of involved NAFI personnel (e.g., borrowed military manpower, servicemembers employed part time by the NAFI, civilian employees paid from appropriated or nonappropriated funds, etc.).

13. AFSOUTH Claims. In general, AFSOUTH is responsible for payment of NATO SOFA claims arising out of the performance of AFSOUTH missions, even when U.S. Forces personnel or vehicles are involved. Consequently, care must be exercised in the preparation of incident reports involving U.S. Forces personnel assigned or attached to AFSOUTH or its subordinate NATO commands in Italy. Sufficient information must be provided on the mission and duties of AFSOUTH personnel at the time of the incident/accident to enable USSSO and AFSOUTH to determine whether the claim is ultimately payable by AFSOUTH.

14. POV Traffic Accident Claims. When a NATO SOFA claim has been filed and the driver was not in the performance of official duty,⁹ USSSO will first require the claimant to file against any available private third-party liability insurance. An *ex-gratia* award will be made only when available third-party liability insurance has been exhausted and an additional award is appropriate under references (d) and (n).

15. Apartment/Residence Damage Claims.

a. NATO SOFA claims filed by landlords for damages to leased quarters are usually not payable under either paragraphs 5 or 6 of Article VIII. See Article VIII, paragraph 5 of reference (a) (barring contractual claims), and paragraph 0812 of reference (n) (prohibiting payment of claims adjudicated under reference (d) which are "purely contractual in nature" or which "involve private contractual and domestic obligations of individuals").

b. To meet the jurisdictional limitations of references (a), (d), and (n) while promoting "friendly relations through

⁸ Claims which can be settled for \$100.00 or less may be adjudicated by the commanding officer or commander of the activity concerned without transfer to USSSO. In such cases, the settlement must be paid from funds available to the command.

⁹ MOD has consistently taken the position that commuting to and from work in a POV does not constitute the performance of an official duty, thereby making such incidents ineligible for treatment under Article VIII, paragraph 5 of reference (a).

the prompt settlement of meritorious claims" in Italy, USSSO will, for leases entered into or renewed on or after 1 January 1998, extend *ex-gratia* awards to landlords for claimed damage to economy rental quarters only under the following circumstances:

(1) The lease did not explicitly state the United States could not be held liable for loss or damage to the quarters;

(2) In cases of fire or flood, the lease did not require the landlord or tenant to procure insurance covering the loss, and neither the landlord nor the tenant had insurance in force covering the loss;

(3) The command has exhausted all reasonable efforts to have the tenant pay for the damage, to include, where appropriate, private restitution and/or advising the landlord to file a claim pursuant to Article 139, Uniform Code of Military Justice;

(4) The landlord can establish that failure to pay the claim would impose a substantial personal financial hardship on him/her;

(5) The loss or damage was caused by a member of the force or the civilian component; and,

(6) The claim is otherwise payable under references (a), (d) and (n).

d. Given that claims for damages to leased quarters will usually not be payable under the NATO SOFA, senior servicing judge advocates should ensure that their commanders and housing officers are aware of USSSO's policy on quarters damage claims.

e. USSSO also recommends that base housing offices:

(1) Require landlords to procure fire/flood insurance covering their rental properties.

(2) Encourage tenants to buy fire/flood insurance when the landlord is not required by the lease to procure such insurance.

(3) Inform tenants before they enter into residential leases that under Italian law they will be presumed liable for almost any damage that occurs during the tenancy. Furthermore, they should know that such liability is an individual responsibility and that an Italian court could enter a judgment against them personally and execute that judgment against their personal funds or property. Also, they should be made aware that in the vast majority of cases neither the United States nor the Government of Italy will pay for damages to leased economy quarters.¹⁰

¹⁰ USSSO also recommends that housing offices require

16. POV Insurance. Commanders, provost marshals and senior servicing judge advocates should take all reasonable steps to ensure that all U.S. military and civilian personnel (to include family members (dependents) and civilian personnel who are not members of the civilian component) obtain and maintain mandatory third-party liability insurance on their POVs as required by Italian law. The existence of such insurance almost always obviates the need for United States to offer *ex-gratia* awards to foreign nationals involved in automobile accidents with POVs owned by members of the U.S. Forces and the civilian component, while also helping to promote good relations with the host nation.

17. Reporting of Incidents to U.S. and Italian Authorities. All personnel should be encouraged to report promptly to U.S. and Italian police authorities incidents which may give rise to claims against the United States, thereby promoting timely investigation and disposition of claims.

18. Italian Civil Legal Proceedings.

a. USSSO must be informed immediately whenever the United States, a member of the force or civilian component, or an Italian employee of the U.S. Forces is summoned as a party defendant in an Italian civil action for damages in cases involving death, personal injury and/or property loss arising out of the performance of official duty. USSSO will then arrange for the Italian MOD to be substituted as party defendant in all cases except those involving Italian employees.¹¹ USSSO will also assist in making any required coordination with the U.S. Department of Justice.¹²

b. When, under general principles of Italian law, an

residential leases to explicitly state that the tenant can be held liable only for damages resulting from gross negligence or willful misconduct. Because such a clause is a departure from standard Italian civil law, it must be individually acknowledged and signed by the parties to the lease.

¹¹ In cases where substitution cannot be effected and representation cannot be provided by the Department of Justice, 10 U.S.C. 1037 provides authority for commands to provide representation of U.S. servicemembers and civilian personnel (including dependents but excluding contractors) at U.S. Government expense.

¹² All other Italian civil actions against the United States not arising in tort (i.e., labor, contract, taxation, etc.) should be coordinated immediately with both USSSO and the Department of Justice's Civil Division European Office (American Embassy - London, PSC 801, Box 42, FPO AE 09498-4042, telephone 44-171-629-6794, facsimile 44-171-408-8137).

Italian employee of the U.S. Forces was acting within the scope of employment at the time of the incident in question, the Italian employee is entitled to request free legal defense by the State Attorney's Office (*Avvocatura dello Stato*). The employee should be advised to request this representation and should not be encouraged to retain private counsel. In the event the employee nevertheless retains private counsel, USSSO must be immediately notified. Requests should be made on legal size paper (20,000 Lire worth), addressed to:

Avvocatura Generale dello Stato
Via dei Portoghesi, 12
00186 Rome

The request should be endorsed by the employee's commanding officer or supervisor, and it should be sent to USSSO along with the original writ of summons.

19. Fatal or Other Very Serious Accidents. Telephonic notice to USSSO is required of motor vehicle and other incidents involving death or very serious injuries, extensive property damage or of potential embarrassment to the United States. TELEPHONIC NOTIFICATION TO USSSO IS REQUIRED EVEN IF USSSO OR OTHER U.S. EMBASSY OFFICES WILL BE NOTIFIED OF THE INCIDENT BY E-MAIL OR ELECTRONIC MESSAGE.

20. Maneuver Damage Claims. The following procedures govern the processing of maneuver damage claims caused by U.S. Forces during field exercises and training activities:

a. Claims for an amount up to Lire 300,000 are settled locally by the Engineering Directorates of the individual Italian Military Regions who, upon payment, forward the appraisal-settlements to the General Claims Directorate of the Ministry of Defense. The latter then will request cost sharing from USSSO in accordance with the provisions of Article VIII, paragraph (5) of reference (a).

b. The following is a list of the cognizant Military Regions and the cities where the Directorates of the Military Engineering are located;

(1) North-West Military Region Command (Aosta Valley, Piedmont, Lombardia, and Liguria): Turin (telegraphic address: REGIOMILES NO).

(2) North-East Military Region Command (Trentino-Alto Adige, Veneto and Friuli-Venezia Giulia): Padua (telegraphic address: REGIOMILES NE).

(3) Tosco-Emilian Military Region Command (Emilia, Romagna and Tuscany): Florence (telegraphic address: REGIOMILES TE).

(4) Central Military Region Command (Marche, Umbria, Abruzzi and Lazio): Rome (telegraphic address: REGIOMILES CE).

(5) Southern Military Regional Command (Molise, Campania, Puglia, Basilicata and Calabria): Naples (telegraphic address: REGIOMILES ME).

(6) Sicily Military Regional Command (Sicily): Palermo (telegraphic address: REGIOMILES SI).

(7) Sardinia Military Region Command (Sardinia): Cagliari (telegraphic address: REGIOMILES SA).

c. Claims for damages over 300,000 Lire must be forwarded to the *Direzione Generale del Contenzioso* (see paragraph 7, *supra*) supported by technical appraisals and other documentation. The *Direzione Generale del Contenzioso* provides payment to individual claimants and then seeks cost sharing from USSSO in accordance with the provisions of Article VIII, paragraph (5) of reference (a).

d. U.S. commanders should, whenever maneuver exercises are planned, advise the local Italian commander of engineers. The latter will appoint a commission to examine, adjudicate, and pay (when the amount is within local authority) all maneuver damage claims. The U.S. commander should furnish an observer to accompany the commission. The observer should make a report to his commander noting concisely the date(s) of the maneuver, the area, the claimant's name and address, the nature of damage, date of the claim and amount approved. The commander will then transmit the report to USSSO.

21. Claims Arising Outside of Italy. References (k)-(p) set out processing, investigation and disposition authorities for claims arising outside of Italy.

22. Direct Communication Authorized. Claims officers in the field are encouraged to communicate directly with USSSO by telephone, facsimile and/or e-mail. USSSO can be contacted as follows:

COM Telephone: (39) 6-4674-2153/2303/2354

COM Facsimile: (39) 6-4674-2653

DSN Telephone: (314) 625-3146

DSN Facsimile: (314) 625-3157

(must call first to arrange DSN facsimile)

E-Mail Addresses:

Primary: ussso@romewpoa.us-state.gov

Alternate: sjasso@nhbs.navy.osd.mil

USPS Address: USSSO, PSC 59, Box 65, APO AE 09624

JOHN R. HENRIKSEN
CAPT, JAGC, USN
Officer-in-Charge

COMMANDER'S/SUPERVISOR'S INCIDENT/ACCIDENT STATEMENT

I, the undersigned, on _____, (ordered) (authorized)

_____,
Name SSN/Italian Identification Number
a member of my (command) (unit) (agency) (office), to operate a
government vehicle, _____
Type, License Plate
on _____, with the specific mission of _____
Date

_____.
The mission start point was _____
and the time and date of departure was _____.
The normal time required for the trip/job was _____
and the normal route of travel would be _____
_____.

In my opinion, the route taken (was) (was not) authorized. In
my
opinion, _____ (was) (was not) performing an
Name
official duty at the time of the accident/incident.

Signature

Typed Name and Grade of the
Commander or Supervisor Who
Authorized the Mission

Organization and Duty Phone

(Enclosure 2)